COUNCIL REGULATION (EEC) No 2075/82

of 28 July 1982

imposing a definitive anti-dumping duty on imports of standardized multi-phase electric motors having an output of more than 0·75 kW but not more than 75 kW, originating in the USSR, and terminating the proceedings in respect of imports of the said products originating in Bulgaria, Czechoslovakia, the German Democratic Republic, Poland and Romania

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), and in particular Articles 10 and 12 thereof,

Having regard to the proposal from the Commission, after consultations within the Advisory Committee set up under that Regulation,

Whereas, on 22 February 1980, the Commission decided to accept undertakings in connection with the anti-dumping proceeding concerning imports of standardized multi-phase electric motors having an output of more than 0·75 kW but not more than 75 kW, originating in Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland and Romania, and to terminate those proceedings (2); whereas a similar decision was taken on 19 June 1980 in respect of the USSR (3);

Whereas on 5 August 1981 the Commission announced, in a notice published in the *Official Journal of the European Communities* (4), that it was reviewing the decision to accept undertakings in connection with the anti-dumping proceedings concerning imports of standardized multi-phase electric motors having an output of more than 0·75 kW but not more than 75 kW originating in Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and the USSR and was re-opening those proceedings;

Whereas the Commission officially so advised the exporters and importers known by it to be concerned;

Whereas the Commission has given the parties directly concerned the opportunity to make known their views in writing and to be heard orally;

Whereas some of the parties concerned took this opportunity to present detailed written and/or oral observations;

Whereas, in order to arrive at a preliminary assessment of the dumping margin and injury, the Commission gathered from the Community exporters, importers and producers concerned which agreed to cooperate in the investigation all the information it deemed necessary and checked that information; whereas, where necessary, it carried out inspections at the companies' premises; whereas information was supplied *inter alia* by the following companies:

— Community importers:

Exico (London)
Frimodt-Pedersen (Daugard)
Arnitlund Handels APS (Voyens)
A. Johnson (Charlottenlund)
Enital (Milan)
Veneta Motori (Padua)
Bame (Quarrata)
Elprom (Parma)
Imex (Milan)
Elektropol Cantoni (Milan)
Mez Italiana (Milan)
Emac (Turin)
Cimme (Piacenza)
Stanko (Longjumeau)
Magra (Bagnolet)
Sofbim (Argenteuil)
Sorice (Ivry s/Seine)
Sodimef (Strasbourg)
Sermes (Strasbourg)
Symkens (Liège)
Industrial Electric (Kortrijk)
Neotype (Bergich Gladbach)
Eltrans (Hamburg)
Elektra (Frankfurt a/m)
Fritz Oberstenfeld (Hamburg)
Elprom (Borken)
Rotor (Eibergen)
Stokvis (Rotterdam)
Bege (Wassenaar)
Huberts (Veghel)
Peja (Arnhem)

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 53, 27. 2. 1980, p. 21.
(3) OJ No L 153, 21. 6. 1980, p. 48.
(4) OJ No C 197, 5. 8. 1981, p. 2.

— Community producers :

Acec (Drogenbos)
Leroy-Somer (Angoulême)
Cem (Lyons)
Ansaldo (Arzignano)
Marelli (Milan)
Asea (Odense)
Bcpm (London)
Newman Electric Motors (Bristol)

— and exporters :

Transelektro (Hungary)
Electroexportimport (Romania)
Zse (Czechoslovakia)
AHB-Elektrotechnik Export-Import (German Democratic Republic)
Elektrim (Poland)
Electroimpex (Bulgaria) ;

Whereas, since the preliminary examination of the matter showed that there was dumping, that there was sufficient evidence of injury, and that the interests of the Community called for immediate intervention, the Commission by Regulation (EEC) No 724/82 [1] repealed its Decisions of 22 February 1980 and 11 June 1980 accepting the undertakings given respectively by exporters in Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland and Romania and by exporters in the USSR, in connection with the anti-dumping proceedings concerning imports of the products in question ; whereas, by the same Regulation, it accepted the new undertaking given by the Hungarian exporter Transelektro and terminated the proceedings regarding imports originating in Hungary ; whereas it finally imposed a provisional anti-dumping duty on imports of the products in question originating in Bulgaria, Czechoslovakia, the German Democratic Republic, Poland, Romania and the USSR ;

Whereas, in the course of subsequent examination of the matter, completed after the imposition of the provisional anti-dumping duty, the interested parties had the opportunity to make known their views in writing, to be heard by the Commission and to develop their views orally, to inspect non-confidential information relevant to the defence of their interests and to be informed of the principal facts and considerations on the basis of which it was intended to make a final determination ; whereas a number of producers, importers and users availed themselves of these possibilities by making known their views in writing or orally ;

Whereas several importers and exporters challenged the choice of the Brazilian market for the normal value, as well as the data produced to evidence both the existence of injury and the causality ;

Whereas, however, the information received in the course of its subsequent examination of the matter does not lead the Commission to modify the reasons for nor the results of its provisional determination, as set out in Regulation (EEC) No 724/82, either in respect of dumping or of injury ;

Whereas, when confronted with the results of the investigation, the exporters AHB-Elektrotechnik Export-Import of the German Democratic Republic, ZSE of Czechoslovakia, Electroexportimport of Romania, Electroimpex of Bulgaria and Elektrim of Poland proposed new undertakings to increase their prices ; whereas the Commission found that the terms of these undertakings and the proposed price levels are likely to eliminate the injurious effects of the imports originating in those countries ;

Whereas, within the Committee provided for in Regulation (EEC) No 3017/79, objections were expressed in this regard by several Member States ; whereas the Commission therefore presented to the Council a report on the results of the consultations and a proposal for the acceptance of the five undertakings and for the termination of the proceedings in respect of the imports concerned originating in the five countries in question ; whereas this proposal is acceptable to the Council ;

Whereas, moreover, in view of the scale of the margin of dumping and of the injury caused, the Community's interests require the definitive collection of the sums paid by way of the provisional anti-dumping duty and the imposition of a definitive anti-dumping duty on the imports concerned originating in the USSR ;

Whereas the amount of the definitive anti-dumping duty should be the same as that of the provisional anti-dumping duty, that is it should be equal to the difference for each type, between the import price, for cash payment, free at Community frontier, not cleared through customs, to the first purchaser and the price specified in the Annex ; whereas for the purposes of this calculation the import price must be reduced for 1 % for each month of deferred payment granted ;

Whereas, moreover, it is necessary to make specific provisions in the case of imports which are sold on a consignment basis where no mention is made on the invoice of the period allowed for payment ; whereas such provisions should take account of the fact that the Commission found that on average a period of 180 days elapsed between importation and payment ; whereas, therefore, in the event that the importer is unable to furnish proof of the period within which he must make the payment, a period of 180 days should be taken for the purposes of calculating the definitive anti-dumping duty ;

[1] OJ No L 85, 31. 3. 1982, p. 9.

Whereas, in order to prevent evasion of the anti-dumping duty, it is necessary to establish another basis for calculating such duty where the electric motors in question are not put into free circulation by the first purchaser in the Community; whereas the method used should take account of the average margin between import prices and resale prices charged by Community importers of electric motors, such margin having been determined in the course of the investigations carried out by the Commission on the premises of importers known to it,

HAS ADOPTED THIS REGULATION:

Article 1

The undertakings given by the exporters AHB Elektrotechnik Export-Import of the German Democratic Republic, ZSE of Czechoslovakia, Electroexportimport of Romania, Electroimpex of Bulgaria and Electrim of Poland are hereby accepted and the proceedings concerning imports originating in these countries shall be terminated.

Article 2

1. A definitive anti-dumping duty is hereby imposed on imports of standardized multi-phase electric motors having an output of more than 0·75 kW but not more than 75 kW, falling within subheading ex 85.01 B I b) of the Common Customs Tariff, corresponding to NIMEXE codes ex 85.01-ex 33, ex 34 and ex 36, originating in the USSR.

2. Subject to paragraph 4, the amount of duty shall be equivalent, for each type of motor, to the difference between the net unit price, free at Community frontier, not cleared through customs, to the first purchaser on Community territory, and the price specified in the Annex.

3. (a) The free-at-Community frontier price, not cleared through customs, referred to in paragraph 2 shall be net if the terms of sale provide that payment shall be made in cash on the date of delivery; it shall be lowered by 1 % for each month for which payment is deferred.

(b) However in the case of imports which are sold on a consignment basis, the free-at-frontier price referred to in paragraph 2 shall be lowered by 6 %, unless the importer is able to furnish proof of the real period within which he may make payment.

4. (a) Where the products defined in paragraph 1 are not put into free circulation on the basis of the price to the first purchaser in the Community, the amount of duty shall be equivalent, for each type, to the difference between the net unit price, free at the Community frontier and not cleared through customs, and the price specified in the Annex increased by 40 %.

(b) However, where the declarant is able to give proof to the satisfaction of the customs authorities of the price paid by the first purchaser, paragraph 2 of this Article shall apply.

5. The provisions in force with regard to customs duties shall apply to this duty.

Article 3

The amounts secured by way of provisional anti-dumping duty in accordance with Regulation (EEC) No 724/82 shall be definitively collected.

Article 4

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 July 1982.

For the Council

The President

O. MØLLER

ANNEX

Minimum prices for imports into the Community of certain standardized multi-phase electric motors originating in the USSR

The minimum import prices referred to in Article 2 (2) of this Regulation are contained in the following tables and are expressed in ECU. These prices apply to type B3 multi-phase electric motors (with retaining legs).

For other types (e.g. B5 or B14) a supplement of 5 % must be added to the prices specified in this table.

kW	hp	3 000 r/min	1 500 r/min	1 000 r/min	750 r/min
1·1	1·5	26·54	30·68	42·31	55·36
1·5	2	30·27	33·96	50·06	72·30
2·2	3	37·79	43·84	61·16	98·94
3·0	4	49·22	52·55	69·31	118·21
4·0	5·5	66·05	66·94	101·01	142·60
5·5	7·5	77·80	85·26	103·17	175·49
7·5	10	94·51	109·93	149·10	198·63
11·0	15	148·99	146·19	215·65	294·01
15·0	20	172·02	190·98	282·23	378·35
18·5	25	214·81	232·46	346·16	469·68
22	30	264·67	273·82	406·72	579·02
30	40	339·13	361·38	538·65	745·71
37	50	389·27	448·11	664·16	906·59
45	60	513·68	531·44	795·07	1 064·72
55	75	688·77	664·16	988·14	1 294·36
75	100	919·20	879·84	1 311·14	1 571·92